

HARRY ELDRIDGE,	)	No. C 07-5650 JSW (PR)
	)	
Petitioner,	)	<b>ORDER DISMISSING PETITION</b>
	)	<b>FOR A WRIT OF HABEAS</b>
vs.	)	<b>CORPUS</b>
	)	
RICHARD SUBIA, Warden,	)	(Docket No. 3)
	)	
Respondent.	)	

The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") was signed into law on April 24, 1996. Under AEDPA, a district court must dismiss claims presented in a second or successive habeas petition challenging the same conviction and sentence that were raised in a previous petition. *See* 28 U.S.C. § 2244(b)(1); *Babbitt v. Woodford*, 177 F.3d 744, 745-46 (9th Cir. 1999). Additionally, a district court must dismiss any new claims raised in a successive petition unless the petitioner received an order from the court of appeals authorizing the district court to consider the petition. 28

1 U.S.C. § 2244(b)(3)(A).


2 Here, the instant petition challenges the same conviction and sentence as the  
3 previous petition decided by this Court in 2005. Petitioner has not presented an order  
4 from the court of appeals authorizing the Court to consider these claims. Accordingly,  
5 the Court must dismiss the instant petition in its entirety. Petitioner is free to seek such  
6 an order from the United States Court of Appeals for the Ninth Circuit. *See*, 28 U.S.C. §  
7 2244(b)(3)(A).

8 **CONCLUSION**

9 For the forgoing reasons, the petition for writ of habeas corpus is DISMISSED as  
10 a second and successive petition. The Clerk shall close the file and enter judgment in  
11 this matter.

12 IT IS SO ORDERED.

13 DATED: November 29, 2007

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16 JEFFREY S. WHITE  
17 United States District Judge  
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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

HARRY EDLRIDGE,

Plaintiff,

v.

RICHARD SUBIA et al,

Defendant.

Case Number: CV07-05650 JSW


**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 29, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Harry L. Eldridge  
P.O. Box 409000  
H06424  
Ione, CA 95640-9000

Dated: November 29, 2007

  
Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk